

REMARKS

The Final Office Action mailed August 16, 2007, has been received and reviewed. Claims 1 through 8 are currently pending in the application. Claims 1 through 8 stand rejected. No claims are amended herein. Reconsideration is respectfully requested.

35 U.S.C. § 102(b) Anticipation Rejection

Anticipation Rejection Based on U.S. Patent No. 3,699,395 to Boleky

Claims 1 and 3 through 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Boleky (U.S. Patent No. 3,699,395). Applicant respectfully traverses this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Boleky discloses a semiconductor device that includes a substrate 12, diodes 16, strips of semiconductor material 18, strips of metal 32, and fuses 42. (Boleky at column 2, lines 11-42). The semiconductor material 18 is formed from silicon. (*Id.* at column 2, lines 21-42 and column 6, lines 5-8). The fuses 42 connect the diodes 16 and the strips of metal 32. (*Id.* at column 2, lines 43-47) The strips of semiconductor material 18 are formed by depositing the semiconductor material on the substrate 12 and masking and etching the semiconductor material 18. (*Id.* at column 2, lines 58-68) The strips of semiconductor material 18 are covered with insulating material 28, which is etched to expose portions of the strips of semiconductor material 18 through openings 46. (*Id.* at column 3, lines 4-15). The entire surface of the workpiece is coated with a metal layer 50, which is etched to form the strips of metal 32. (*Id.* at column 3, lines 16-31). Portions 52 of the metal layer 50 remaining in the openings 46 and are separated from the strips of metal 32 by gaps 56. (*Id.* at column 3, lines 31-34). The entire surface of the workpiece is coated with a fuse material, which is masked and etched to form fuses 42 that connect the strips of metal 32 and the portions 52 of the metal layer 50. (*Id.* at column 3, lines 35-43).

Boleky does not anticipate claim 1 because Boleky does not expressly or inherently describe the element of “a metal feature on an exposed metal structure of the intermediate structure of the semiconductor device.” The Examiner states the structure 18, 18' corresponds to “an exposed metal structure” and that structure 50 corresponds to a “metal feature.” Office Action of August 16, 2007, p. 2. However, structure 18 of Boleky is formed from silicon, which is a semiconductive material. Therefore, Applicant respectfully submits that structure 18 is not “an exposed metal structure,” as recited in claim 1 and structure 50 is not “on an exposed metal structure,” as recited in claim 1.

The Examiner asserted that a person of skill in the art would understand that silicon is a metal material. (Office Action, page 4). Applicant respectfully disagrees. Silicon is understood by those of skill in the art to be non-metallic. (*See*, various dictionary definitions provided in an Information Disclosure Statement filed herewith).

Since Boleky does not describe the metal feature on the exposed metal structure, Boleky necessarily does not expressly or inherently describe the element in claim 1 of “wherein a metal of the metal feature is present on the exposed metal structure and is not present on the at least one exposed open fuse structure.”

Since Boleky does not expressly or inherently describe each and every element of claim 1, the anticipation rejection is improper and should be withdrawn.

Claims 3-8 are allowable, *inter alia*, as depending from an allowable base claim.

35 U.S.C. § 102(b) Anticipation/35 U.S.C. § 103(a) Obviousness Rejection

Anticipation/Obviousness Rejection Based on U.S. Patent No. 3,699,395 to Boleky

Claim 2 stands rejected under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Boleky (U.S. Patent No. 3,699,395). Applicant respectfully traverses this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974); *see also* MPEP § 2143.03. Additionally, there must be “a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the

manner claimed. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742, 167 L.Ed.2d 705, 75 USLW 4289, 82 U.S.P.Q.2d 1385 (2007). Finally, to establish a *prima facie* case of obviousness there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Furthermore, the reason that would have prompted the combination and the reasonable expectation of success must be found in the prior art, common knowledge, or the nature of the problem itself, and not based on the Applicant's disclosure. *DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006); MPEP § 2144. Underlying the obvious determination is the fact that statutorily prohibited hindsight cannot be used. *KSR*, 127 S.Ct. at 1742; *DyStar*, 464 F.3d at 1367.

The nonobviousness of independent claim 1 precludes a rejection of claim 2 which depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to dependent claim 2.

CONCLUSION

Claims 1-8 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,



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